IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 11848 of 2004

DATE OF DECISION : 21.9.2006

Nater Pal

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI

PRESENT: Mr.SK Malik, Advocate for the petitioner.

Mr. Harish Rathee,Sr.DAG, Haryana for the State.

M.M.KUMAR,J.

The prayer made in this writ petition is that order dated 17.5.2004 (Annexure P-17) rejecting the claim of the petitioner for regularization be quashed.

According to the impugned order, the petitioner was engaged by the respondents as a Driver w.e.f. 10.5.1994 on purely muster-roll / daily wage basis . His case was considered on the basis of relevant policy, which provided that those who have completed three years uninterrupted service as on 31.1.1996 were to be regularized. However, he did not fulfill the conditions laid down in the policy inasmuch as he has break of more than one month in every year at a time. Even otherwise, it was found that the petitioner did not complete 240 days in each of the last three years preceding the policy of regularization i.e. 1993,1994,1995 and 1996. Therefore, his case was rejected.

Having perused the pleadings as well as the Anenxures and hearing the learned counsel for the parties, we find that the issue raised in this petition is squarely covered against the petitioner by the judgment of the Constitution Bench of the Supreme Court in **Secretary, State of Karnataka and others vs Umadevi and others, 2006(4) S.C.C. 1.** According to the aforementioned judgment, regularization has not been considered as a mode of appointment. It has to be established that the petitioner was initially appointed in accordance with law consistent with the provisions of Articles 14 and 16(1) of the Constitution. There is no such case set up in the petition, which may warrant any such conclusion. Therefore, the writ petition is wholly misconceived and the same is accordingly dismissed.

(M.M.KUMAR)
JUDGE

September 21 ,2006 (M.M.S.BEDI)
TSM JUDGE